

§ 245.210

24 CFR Ch. II (4–1–99 Edition)

D, of this chapter, or a Housing Assistance Payments Contract under 24 CFR part 886 shall not refuse to make assistance under such contract available to an existing tenant who is eligible therefor, provided that sufficient contract and budget authority and contract units are available under the contract. However, this provision shall not be deemed to require the mortgagor to give priority in the allocation of any such available assistance to an existing tenant instead of an eligible applicant on the mortgagor's waiting list or otherwise to supersede tenant selection procedures which are not otherwise inconsistent with applicable program regulation or instructions.

(c) Subject to the provisions of any contract made in connection with the purchase of a multifamily housing project owned by the Secretary, this section shall not be deemed to require a mortgagor subject to the requirement of this subpart to enter into a Housing Assistance Payments Contract pursuant to 24 CFR part 982 for the benefit of an existing tenant who obtains a Certificate of Family Participation.

[48 FR 28437, June 22, 1983. Redesignated at 50 FR 32403, Aug. 12, 1985, as amended at 61 FR 57961, Nov. 8, 1996]

**§ 245.210 Availability of information.**

A mortgagor subject to the requirements of this subpart shall make available to tenants any information concerning rent subsidies or other public assistance that is prepared and distributed by HUD to the project for the purpose of distribution to tenants.

[48 FR 28437, June 22, 1983. Redesignated at 50 FR 32403, Aug. 12, 1985]

**Subpart D—Procedures for Requesting Approval of an Increase in Maximum Permissible Rents**

SOURCE: 50 FR 32403, Aug. 12, 1985, unless otherwise noted.

**§ 245.305 Applicability of subpart.**

(a) The requirements of this subpart apply to any request by a mortgagor, as provided by § 245.10, for HUD approval of an increase in maximum permissible rents.

(b) For purposes of this subpart, an increase in utility charges paid directly by the tenant does not constitute an increase in rents.

**§ 245.310 Notice to tenants.**

(a) At least 30 days before submitting a request to HUD for approval of an increase in maximum permissible rents, the mortgagor must notify the tenants of the proposed rent increase. Copies of the notice must be served on the tenants as provided in § 245.15. The notice must contain the following information in the following format or an equivalent format:

NOTICE TO TENANTS OF INTENTION TO SUBMIT  
A REQUEST TO HUD FOR APPROVAL OF AN IN-  
CREASE IN MAXIMUM PERMISSIBLE RENTS

Date of Notice

Take notice that on [date] we plan to submit a request for approval of an increase in the maximum permissible rents for [name of apartment complex] to the United States Department of Housing and Urban Development (HUD). The proposed increase is needed for the following reasons:

- 1.
- 2.
- 3.

The rent increases for which we have requested approval are:

Bedrooms	Present rent <sup>1</sup>		Proposed increase <sup>1</sup>		Proposed rent <sup>1</sup>	
	Basic	Market	Basic	Market	Basic	Market
5 .....	\$ .....	\$ .....	\$ .....	\$ .....	.....	\$ .....
0 .....	.....	.....	.....	.....	.....	.....
1 .....	.....	.....	.....	.....	.....	.....
2 .....	.....	.....	.....	.....	.....	.....
3 .....	.....	.....	.....	.....	.....	.....
4 .....	.....	.....	.....	.....	.....	.....

<sup>1</sup> Separate columns for basic and market rent should be used only for projects assisted under sec. 236 of the National Housing Act. In addition, in projects with more than 1 type of apartment having the same number of bedroom but different rents, each type should be listed separately.

A copy of the materials that we are submitting to HUD in support of our request will be available during normal business hours at [address] for a period of 30 days from the date of service of this notice for inspection and copying by tenants of [name of apartment complex] and, if the tenants wish, by legal or other representatives acting for them individually or as a group.

During a period of 30 days from the date of service of this notice, tenants of [name of apartment complex] may submit written comments on the proposed rent increase to us at [address]. Tenant representatives may assist tenants in preparing those comments. (If, at HUD's request or otherwise, we make any material change during the comment period in the materials available for inspection and copying, we will notify the tenants of the change or changes, and the tenants will have a period of 15 days from the date of service of this additional notice (or the remainder of any applicable comment period, if longer) in which to inspect and copy the materials as changed and to submit comments on the proposed rent increase). These comments will be transmitted to HUD, along with our evaluation of them and our request for the increase. You may also send a copy of your comments directly to HUD at the following address: United States Department of Housing and Urban Development [address of local HUD field office with jurisdiction over rent increases for the project], Attention: Director, Housing Management Division, Re: Project No. [Name of Apartment Complex].

HUD will approve, adjust upward or downward, or disapprove the proposed rent increase upon reviewing the request and comments. When HUD advises us in writing of its decision on our request, you will be notified. If the request is approved, any allowable increase will be put into effect only after a period of at least 30 days from the date you are served with that notice and in accordance with the terms of existing leases.

[Name of mortgagor or managing agent]

(b) The mortgagor must comply with all representations made in the notice. The materials to be made available to tenants for inspection and copying are those specified in § 245.315.

#### **§ 245.315 Materials to be submitted to HUD.**

When the notice referred to in § 245.310 is served on the tenants, the mortgagor must send to the local HUD office copies of the following documents described in either paragraph (a) or (b) of this section, as specified by the local HUD office:

(a) Documents to be submitted under profit and loss approach:

(1) A copy of the notice to tenants;

(2) An annual Statement of Profit and Loss, Form HUD-92410, covering the project's most recently ended accounting year (this statement must have been audited by an independent public accountant if the project is required by HUD to prepare audited financial statements), and Form HUD-92410 for the intervening period since the date of the last annual statement if more than four months have elapsed since that date;

(3) A narrative statement of the reasons for the requested increase in maximum permissible rents; and

(4) An estimate of the reasonably anticipated increases in project operating costs that will occur within twelve months of the date of submission of materials under this section.

(5) A status report on the project's implementation of its current Energy Conservation Plan.

(b) Documents to be submitted under the forward-budget approach:

(1) A cover letter summarizing the reasons a rent increase is needed;

(2) A copy of the notice to tenants;

(3) A rent increase worksheet providing an income and expense budget for the 12 months following the anticipated effective date of the proposed rent increase;

(4) A brief statement explaining the basis for the expense lines on the rent increase worksheet;

(5) A partially completed Rent Schedule, Form HUD-92458;

(6) If the tenants receive utility allowances, the mortgagor's recommended utility allowance for each unit type and brief statement explaining the basis for the recommended increase; and

(7) A status report on the project's implementation of its current Energy Conservation Plan.

(The information collection requirements in paragraph (a) of this section were approved by the Office of Management and Budget under control number 2502-0310 and the information collection requirements in paragraph (b) were approved under control number 2502-0324)